

COPY

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

THE DEPARTMENT OF TRANSPORTATION)
OF THE STATE OF ILLINOIS, for and on)
behalf of the PEOPLE OF THE STATE OF)
ILLINOIS,)

Petitioner,)

v.)

T 02-0099

THE BURLINGTON NORTHERN and SANTA)
FE RAILWAY COMPANY, SUCCESSOR TO)
THE CHICAGO, SANTA FE and CALIFORNIA)
RAILWAY COMPANY and UNKNOWN)
OWNERS,)

Respondents.)

Petition for approval of the taking or)
damaging of certain properties owned by a)
public utility in Cook County, Illinois by)
exercising the right of eminent domain.)
Parcel No. OEP0007TE.)

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Illinois Commerce Commission
RAIL SAFETY SECTION

**RESPONDENT, THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY'S MOTION TO CONTINUE
PUBLIC HEARING**

Now comes respondent, The Burlington Northern and Santa Fe Railway Company ("BNSF"), by its attorneys, Kenneth J. Wysoglad & Associates and moves the Illinois Commerce Commission for an order continuing the December 5, 2002 public hearing scheduled in the above captioned cause. In support thereof, respondent states as follows:

1. On or about October 8, 2002 petitioner filed its petition in the above captioned cause seeking approval from the Illinois Commerce Commission of the taking or damaging of certain properties owned by respondent, The Burlington Northern and Santa Fe Railway Company.

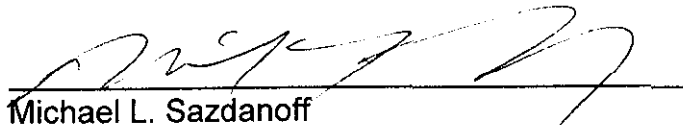
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2. On October 22, 2002 respondent, through its counsel, filed its appearance in the above captioned cause. Pursuant to Notice issued by the Illinois Commerce Commission, public hearing in the above captioned cause is scheduled for December 5, 2002 at the hour of 9:00 a.m. at the offices of the Illinois Commerce Commission located in Chicago, Illinois.
3. On December 5, 2002, counsel for respondent, The Burlington Northern and Santa Fe Railway Company is scheduled to attend depositions in Racine, Wisconsin in the litigation styled Armando Noriega v. James Cape & Sons, et al., Circuit Court of Cook County, County Department, Law Division, Case No. 01 L 5367. Due to the scheduling order set by the Court, the Racine, Wisconsin scheduled depositions in the Noriega must proceed.
4. Due to this unforeseen scheduling conflict, counsel for respondent, BNSF, will be unable to attend the December 5, 2002 scheduled hearing in the above captioned cause and would therefore request continuance of the aforesaid hearing date.
5. Counsel for respondent, BNSF, has contacted petitioner's counsel advising of respondent's need for continuance of the public hearing and requested petitioner's agreement for the same. Petitioner's attorney had no objection and agreed to respondent's request for a continuance.

6. Respondent's counsel was also successful in contacting the attorney representing respondent, County of Cook, Illinois, concerning respondent's need for a continuance. Counsel for Cook County, Illinois had no objection to respondent, BNSF seeking a continuance herein.
7. Respondent, BNSF's motion for continuance of hearing is not made for purpose of delay but was made necessary due to the press of business and a conflict in the scheduling of matters beyond the control of respondent's counsel.

Wherefore, respondent, The Burlington Northern and Santa Fe Railway Company, prays that this motion be granted and that the December 5, 2002 scheduled public hearing in the above captioned cause be continued to a date in the future convenient to the Illinois Commerce Commission and the parties.

KENNETH J. WYSOGLAD & ASSOCIATES



Michael L. Sazdanoff

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Kenneth J. Wysoglad & Associates
Attorneys for Respondent
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PROOF OF SERVICE

Michael L. Sazdanoff, being first duly sworn on oath, deposes and says that on the 27 day of NOVEMBER, 2002, he caused to be served, a true and correct copy of **RESPONDENT, THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY'S MOTION TO CONTINUE PUBLIC HEARING** upon:

Mr. Douglas G. Felder
Douglas G. Felder, P.C.
Attorney at Law
20 S. Clark Street, Suite 2000
Chicago, Illinois 60603

William Motto
Assistant State's Attorney
Richard J. Daley Center, Room 500
Chicago, Illinois 60601

Mr. Henry Humphries
Railroad Section
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, Illinois 62701

Administrative Law Judge June B. Tate
Illinois Commerce Commission, 8th Floor
160 N. LaSalle Street
Chicago, Illinois 60601

by depositing same in the U.S. Mail depository located at Adams and Clinton Streets, Chicago, Illinois in an envelope(s) with first-class postage, prepaid.

